

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,) NO. CR-10-6062-WFN-1
Plaintiff,)
-vs-) ORDER
MARCELINO OSEGUERA-MADRIGAL,)
a/k/a Marcelino Oseguera-Madrigal,)
Defendant.)

A pretrial conference and motion hearing was held January 11, 2011. The Defendant, who is in custody, was present and represented by Nicholas Marchi; Rump; Assistant United States Attorney Alexander Ekstrom represented the Government. The Court addressed Defendant's Request for Discovery and Inspection Pursuant to Fed. R. Crim. P. 16 (ECF No. 28). Defendant requested that the Court reserve ruling on Defendant's Motion to Dismiss because defense counsel did not have access to the entire A-file and would like the A-file to draft a reply. To accommodate that request, Defendant made an oral motion to continue. The Court has reviewed the file and motions and is fully informed. This Order is entered to memorialize and supplement the oral rulings of the Court. Accordingly,

IT IS ORDERED that:

1. Defendant's Request for Discovery and Inspection Pursuant to Fed. R. Crim. P. 16, filed December 23, 2010, **Ct. Rec. 28**, is **DENIED with the right to renew**.
2. The Court **RESERVES RULING** on Defendant's Motion to Dismiss, filed December 28, 2010, **Ct. Rec. 31**.

1 (a) Defendant's reply shall be filed and served no later than **January 31, 2011**.
2 (b) The Government's surreply shall be filed and served no later than **February 7,**
3 **2011.**

4 3. Defendant's oral motion for a trial continuance is **GRANTED**.

5 The Court finds that the ends of justice served by the granting of a continuance of
6 the trial in this matter outweigh the best interests of the public and the Defendant in a speedy
7 trial. A trial date of February 7, 2011, would unreasonably deny time to resolve pretrial
8 issues and provide effective assistance of counsel, taking into account the exercise of due
9 diligence. 18 U.S.C. § 3161(h)(7).

10 4. The trial date of February 7, 2011, is **STRICKEN and RESET to March 7, 2011,**
11 **at 9:00 a.m., in Yakima, Washington.**

12 5. All time from the trial date of February 7, 2011, to the new trial date of March 7,
13 2011, is **EXCLUDED** for speedy trial calculations pursuant to 18 U.S.C. § 3161(h)(7). A
14 waiver of speedy trial rights was signed by the Defendant.

15 6. The February 7, 2011, final pretrial conference and motion hearing is **STRICKEN**
16 **and RESET to March 7, 2011, at 8:30 a.m., in Yakima, Washington.**

17 7. All time from the filing of Defendant's Motion for Discovery on December 23,
18 2010, to the date of the hearing on January 11, 2011, 2010, is **EXCLUDED** for speedy trial
19 calculations pursuant to 18 U.S.C. § 3161(h)(1)(D).

20 8. Trial briefs, motions in limine, requested voir dire and a set of proposed **JOINT**
21 **JURY INSTRUCTIONS** shall be filed and served on or before **February 24, 2011**.

22 Jury instructions should only address issues that are unique to this case, and shall
23 include instructions regarding the elements of each claim, any necessary definitions and a
24 proposed verdict form.

25 The Joint Proposed Jury Instructions shall include:

26 (a) The instructions on which the parties agree; and

1 (b) Copies of instructions that are disputed (i.e., a copy of each party's proposed
2 version of an instruction upon which they do not agree). All jury instructions from the most
3 current edition of the Ninth Circuit Manual of Model Jury Instructions may be proposed by
4 number. The submission of the Joint Proposed Jury Instructions will satisfy the requirements
5 of LR 51.1(c).

6 Each party shall address any objections they have to instructions proposed by any
7 other party in a memorandum. The parties shall identify the specific portion of any proposed
8 instruction to which they object and shall elaborate the basis for the objection. Objections
9 asserting that an instruction sets forth an incorrect statement of law shall describe the legal
10 authority that supports this objection. Failure to file an objection and supporting argument
11 may be construed as consent to the adoption of an instruction proposed by another party.

12 9. The parties are requested to submit courtesy copies of witness and exhibit lists to
13 the Court no later than **12:00 noon the Thursday before trial**.

14 10. An additional pretrial conference and motion hearing shall be held **February 22,**
15 **2011, at 8:30 a.m., in Yakima,** Washington. The Court will address Defendant's Motion
16 to Dismiss (ECF No. 31) at that time.

17 The District Court Executive is directed to file this Order and provide copies to
18 counsel.

19 **DATED** this 12th day of January, 2011.

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21
22 01-11

s/ Wm. Fremming Nielsen
WM. FREMMING NIELSEN
SENIOR UNITED STATES DISTRICT JUDGE